

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA

Plaintiff,

-vs-

Case No. 3:08-CR-142

TECHMETALS, INC.,

Defendant.

**ORDER ADOPTING THE REPORT AND RECOMMENDATIONS OF THE UNITED STATES
MAGISTRATE JUDGE (DOC. #7) , ACCEPTING THE PLEA OF GUILTY, AND IMPOSING
SENTENCE UPON THE DEFENDANT.**

This matter came on for a hearing on December 18, 2008, for a change of plea hearing before United States Magistrate Judge Michael R. Merz. The Defendant appeared through its President Daniel A. Brockman, whom the Magistrate Judge found to have been duly authorized to appear on behalf of the Defendant and to do all acts necessary to effectuate the plea agreement on its behalf. Having conducted a full plea colloquy with the defendant, the Magistrate Judge concluded that the Defendants plea of guilty was knowing, intelligent, and voluntary, and that there is an adequate factual basis for a finding of guilt. The parties waived preparation of a presentence investigation report and agreed on a sentence set forth in the plea agreement pursuant to Fed.R.Crim.P. 11(c)(1)(C). The Magistrate Judge recommends that the Court conclude no presentence investigation is necessary and that the agreed sentence adequately serves the purpose of sentencing set forth in 18 U.S.C. § 3553(a). The Magistrate Judge further recommended that the Court impose the sentence as agreed to by the parties.

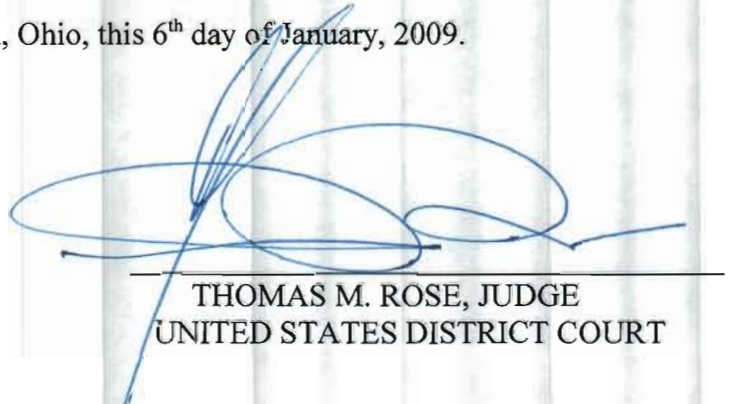
All parties waived their right to object to the report and recommendations of the Magistrate Judge and consented to the Court's adopting the report forthwith and imposing sentence accordingly. The Defendant consented to imposition of sentence in absentia.

Therefore, based upon the aforesaid, and this Courts de novo review of the comprehensive findings by the United States Magistrate Judge this Court adopts the Report and Recommendations of the United States Magistrate Judge (Doc. #7) in its entirety, finding that the plea was knowing, intelligent and voluntary. The Defendant is FOUND guilty of the offenses for which he pled. The

parties having waived a presentence investigation, the Court FINDS that pursuant to Rule 32(c)(1)(A)(ii) of the Federal Rules of Criminal Procedure the information in the record enables it to meaningfully exercise its sentencing authority under 18 U.S.C. § 3553, absent a presentence investigation and preparation of a presentence investigation report.

Pursuant to Fed.R.Crim.P. 11(c)(1)(C), and the agreed upon sentence as set forth in the plea agreement, the defendant is sentenced to a period of 3 years probation. Along with the standard conditions of probation, the defendant is also ordered as a special condition of probation to make a contribution to a non-profit organization or organizations in the amount of \$15,000.00 within 30 days of the date of sentencing, as agreed to in the plea agreement. The contribution will be made to the Aullwood Audubon Center and Farm, Summer Adventures Program. The defendant will pay a special assessment in the amount of \$400.00, which is due immediately. It is further ORDERED that the defendant pay a fine in the amount of \$20,000.00, with the first payment of \$5,000.00 due within 30 days of sentencing, the second payment of \$7,500.00 due within 12 months of sentencing, and the last payment of \$7,500.00 due within 24 months of sentencing. The sentence will be finalized in a Judgment and Commitment Order to be filed by the Court.

DONE and ORDERED in Dayton, Ohio, this 6th day of January, 2009.



THOMAS M. ROSE, JUDGE
UNITED STATES DISTRICT COURT